

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ANGELA HOLLINS,

Plaintiff,

-against-

THE CITY OF NEW YORK, Police Officer FEIT  
WALTER, Shield No. 31577, Police Officer FAVIO  
QUIZHPI, Shield No. 8682, Police Officer  
MICHAEL HANSEN, Shield No. 8736, Police  
Officer PHU TRAN, Shield No. 16392, Police  
Officer JOHN DOE NUMBER 1 and 2 in their  
individual and official capacities as employees of  
the City of New York,

Defendants.<sup>1</sup>  
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**JOINT PRE-TRIAL  
ORDER**

**14-CV-6519 (WFK)(MDG)**

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<sup>1</sup> As reflected in paragraph 1 of this Joint Pre-Trial Order and at Civil Docket Entry No. 29, all claims against the City of New York and John Does 1 and 2 have been withdrawn, with prejudice.

**1. The full caption of the case (reflecting stipulations of the parties) is as stated below:**

ANGELA HOLLINS,

Plaintiff,

-against-

Police Officer WALTER FEIT, Shield No. 31577, Police Officer FAVIO QUIZHPI, Shield No. 8682, Police Officer MICHAEL HANSEN, Shield No. 8736, Police Officer PHU TRAN, Shield No. 16392,

Defendants.

**2. Parties and Counsel**

Plaintiff's Trial Counsel

Amy Rameau, Esq.

Afsaan Saleem, Esq.

The Rameau Law Firm

16 Court Street

Suite 2504

Brooklyn, NY 11241

Tel: (718) 852-4759

Fax: (718) 875-5440

amywmrameau@hotmail.com

saleemlawny@gmail.com

rameaulawny@gmail.com

Defendants' Trial Counsel

Zachary W. Carter

Corporation Counsel of the City of New York

New York City Law Department

100 Church Street

New York, NY 10007

*Attorneys for The City of New York, Police Officer Walter Feit, Police Officer Favio Quizhpi, Police Officer Michael Hansen, & Police Officer Phu Tran*

By: Alexandra Corsi, Senior Counsel<sup>2</sup>

Tel: (212) 356-2340

Fax: (212) 356-3509

acorsi@law.nyc.gov

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<sup>2</sup> Another Assistant Corporation Counsel will be assigned to try this case once a trial date is set.

### 3. Jurisdiction

This Court has subject matter jurisdiction on the basis that the lawsuit presents a federal question, namely plaintiff's rights under 42 U.S.C. 1983, the Constitution and the 4<sup>th</sup>, and 14<sup>th</sup> Amendments.

4. a. Plaintiff's claims to be tried: :

1. Pursuant to 42 U.S.C. 1983, federal excessive force, false arrest, malicious prosecution and denial of constitutional right to fair trial against all individually named defendants.

b. Plaintiff's claims that were voluntarily withdrawn, with prejudice, and are not to be tried include:

1. General Section 1983;
2. Malicious Abuse of Process;
3. City of New York liability under Monell;

c. Defendants' defenses to be tried are as follows:

1. Defendants are entitled to judgment as a matter of law.
2. There was reasonable suspicion for any stop of plaintiff.
3. Defendants have not violated any rights, privileges, or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor have defendants violated any Act of Congress providing for the protection of civil rights.
4. Any injury alleged to have been sustained resulted from the plaintiff's own culpable or negligent conduct and/or the intervening conduct of third parties and was not the proximate result of any act of the defendants.
5. There was probable cause for plaintiff's arrest, detention, and prosecution.
6. Defendants Feit, Quizhpi, Hansen, and Tran have not violated any clearly established constitutional or statutory right of which a reasonable person would have known and therefore are protected by qualified immunity.
7. Plaintiff cannot establish any fabrication entitling her to relief for a denial of a fair trial, and to the extent that claim is based on testimonial evidence, the individual defendants are entitled to absolute immunity. In that regard, plaintiff's denial of fair

trial claim should not proceed to trial as this claim fails as a matter of law. A person suffers a constitutional violation if an (1) investigating official (2) fabricates evidence (3) that is likely to influence a jury's decision, (4) forwards that information to prosecutors, and (5) the plaintiff suffers a deprivation of liberty as a result. Jovanovic v. City of New York, 486 Fed. Appx. 149, 152 (2d Cir. 2012) (citations omitted). Plaintiff simply alleges that "all charges against [her] were false" as the basis of her fair trial claim. That assertion fails regardless of whether the information is testimonial or information provided in an arrest report, complaint report or the like. If testimonial, the defendants are entitled to absolute immunity. See *Id.* ("the only avenue by which the testimony could reach the jury was through [the officer's] testimony, for which he enjoys absolute immunity under Briscoe v. LaHue, 460 U.S. 325, 335-336 (1983) and Rehberg v. Paulk, 132 S. Ct. 1497, 1505 (2012)"). If Plaintiff's alleged "false charges" is in regard to anything the defendant officers told the ADA, that too would fail. See Jones v. City of New York, 12-CV-3658 (JG), 2013 U.S. Dist. LEXIS 162235, at \*29 (E.D.N.Y. Nov. 14, 2013) (alleged false statement that plaintiff was identified in a show-up made by an officer to an ADA is not actionable because, as inadmissible hearsay, it would never get before a jury in a criminal case). Moreover, to the extent it is something contained in a police report or complaint report, that too would fail because these documents are not admissible evidence at a criminal trial and therefore, could not influence a jury's decision. Cf. Hope v. City of New York, CV-08-5022 (BMC), 2010 U.S. Dist. LEXIS 145684, at \*12 (E.D.N.Y. Jan. 22, 2010) ("the statement in the police report, even if intentionally falsified, could not in and of itself have violated plaintiff's constitutional rights.") (citation omitted). These principals were recently applied to dismiss a fair trial claim in Horvath v. City of New York, Docket No. 12 CV 6005 (RJD)(MDG), 2015 U.S. Dist. LEXIS 51029, at \*15-17 (E.D.N.Y. Apr. 17, 2015). Accordingly, this claim should not proceed to trial and should be dismissed with prejudice.

5. The case is to be tried before a jury. The parties anticipate 2-3 days for trial.

6. All parties do not consent to trial of the case by a Magistrate Judge.

7. **Stipulations:** None

8. **Witnesses** (all testimony will be in person, assuming the witness is available at the time of trial):

Plaintiff's Witness List (IN CHIEF)

1. Angela Hollins; will testify about the incident and any medical treatment;
2. Police Officer WALTER FEIT; will testify about the incident and any medical treatment;
3. Police Officer FAVIO QUIZHPI; will testify about the incident and any medical treatment;
4. Police Officer MICHAEL HANSEN; will testify about the incident;
5. Police Officer PHU TRAN; will testify about the incident;
6. Witness from the NYPD Communications Division who can interpret the SPRINT reports;
7. Hazel Buenavista\*, MD, Woodhull Medical and Mental Health Center; will testify about her observations and treatment of plaintiff as documented by medical records;
8. ADA Screener Patricia Brooks, Kings County District Attorney's Office; will testify to what Officer Feit told her;
9. Sandra Craig; plaintiff's aunt will testify to her observations;

\*Defendants object to plaintiff calling Hazel Buenavista, M.D., on the grounds that this witness was not previously identified by plaintiff pursuant to Fed. R. Civ. P. 26 or in response to any discovery demand.

Plaintiff states that Dr. Buenavista was included as the attending physician in the Woodhull Hospital medical records that were provided to defendants on November 18, 2015. Accordingly, defendants are not prejudiced by her inclusion.

Defendants' Witness List<sup>3</sup>

1. Police Officer Walter Feit
2. Police Officer Favio Quizhpi
3. Police Officer Michael Hansen
4. Police Officer Phu Tran

9. Deposition testimony to be offered in case in chief: None

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<sup>3</sup> Defendants reserve the right to call any witnesses listed by plaintiff and to supplement the witness list based on any *in limine* rulings or to rebut evidence adduced in plaintiff's case in chief or for impeachment.

10. A list of Exhibits to be offered in Plaintiff's case in chief:

Plaintiff's Exhibits

<b>Exhibit No.</b>	<b>Bates No.</b>	<b>Doc Name/Type</b>	<b>Use</b>	<b>Objection and Basis</b>
1	DEF 1	Certificate of Disposition	Case in Chief	F.R.E. 402, 403, 802
2	DEF 82-83	Criminal Court Complaint	Case in Chief	F.R.E. 402, 403, 802
3	DEF 13	Complaint Room Screening Sheet	Case in Chief	F.R.E. 402, 403, 802
4	DEF 65-67	Omniform System-Complaints	Case in Chief	F.R.E. 402, 403, 802
5	DEF 16	Aided Report	Case in Chief	F.R.E. 402, 403, 802
6	DEF 68-70	Omniform System-Arrests	Case in Chief	F.R.E. 402, 403, 802
7	DEF 20	Mugshot Pedigree	Case in Chief	F.R.E. 402, 403, 802
8	DEF 72-73	Online Booking System Arrest Worksheet	Case in Chief	F.R.E. 402, 403, 802
9	DEF 22-24	SPRINT Report	Case in Chief	F.R.E. 402, 403, 802, 901
10	DEF 92-94	Memo Book of P.O. <b>Quizhpi</b>	Case in Chief	F.R.E. 402, 403, 802
11	DEF 29	Supporting Deposition of P.O. Quizhpi	Case in Chief	F.R.E. 402, 403, 802
12	DEF 32-43	Woodhull Medical Records of Plaintiff	Case in Chief	F.R.E. 402, 403, 802
13	DEF 44-46	Color Photos of P.O. Quizhpi	Case in Chief	
14	DEF 89-91	Memo Book of P.O. <b>Feit</b>	Case in Chief	F.R.E. 402, 403, 802
15	DEF 53-	Wyckoff Medical Records of P.O. Quizhpi	Case in Chief	F.R.E. 402, 403, 802, 901
16	DEF 62-64	Memo Book of P.O. <b>Tran</b>	Case in Chief	F.R.E. 402, 403, 802
17	DEF 54-56	Memo Book of P.O. <b>Hansen</b>	Case in Chief	F.R.E. 402, 403, 802
18	DEF 74-77	Complaint Report Worksheet	Case in Chief	F.R.E. 402, 403, 802



19	DEF 78	Prisoner Movement Slip	Case in Chief	F.R.E. 402, 403, 802
20	DEF 79-80	Prisoner Arraignment Sheet	Case in Chief	F.R.E. 402, 403, 802
21	DEF 84-85	Property Clerk's Invoice-cordless phone	Case in Chief	
22	DEF 86-87	Property Clerk's Invoice-photographs	Case in Chief	
23	D 100	CCRB History for Quizhpi	Impeachment	F.R.E. 402, 403, improper impeachment
24	D 101-103	IAB History for Quizhpi	Impeachment	F.R.E. 402, 403, improper impeachment
25	D 105	CPI for Quizhpi	Impeachment	F.R.E. 402, 403, improper impeachment
26	D 106	CCRB for Feit	Impeachment	F.R.E. 402, 403, improper impeachment
27	D 96-97	IAB Resume for Tran	Impeachment	F.R.E. 402, 403, improper impeachment
28	D 107-108	IAB Resume for Feit	Impeachment	F.R.E. 402, 403, improper impeachment
29	P12-P25	Photos of Plaintiff	Case in Chief	F.R.E. 402, 403
30	P26-P27	Pre-Arrignment Screening Correctional Health Services	Case in Chief	F.R.E. 402, 403, 802, 901
31	P28	Radio Run Calls	Case in Chief	F.R.E. 402, 403
32	P29	911 Call	Case in Chief	F.R.E. 402, 403
33	P30	911 Call	Case in Chief	F.R.E. 402, 403
34	P31	911 Call	Case in Chief	F.R.E. 402, 403
35	P32	911 Call	Case in Chief	F.R.E. 402, 403
36	P33	911 Call	Case in Chief	F.R.E. 402, 403
37		Deposition Testimony of Officer Quizhpi	Impeachment	
38		Deposition Testimony of Officer Feit	Impeachment	
39		Deposition Testimony of Officer Hansen	Impeachment	
40		Deposition Testimony of Officer Tran	Impeachment	

**Defendants' Exhibits<sup>4</sup>**

<b>Exhibit No.</b>	<b>Bates No.</b>	<b>Doc Name/Type</b>	<b>Use</b>	<b>Objection and Basis</b>
A	DEF 44 – DEF 46	Color photos of Officer Quizhpi	Defendants' case	
B	P 29 – P 33	911 Calls	Defendants' case and/or impeachment	
C	D 084 – D 087	NYPD Property Clerk Invoices	Defendants' case	
D	Not yet obtained	Certified copy of PO Quizhpi's Wycoff medical records	Defendants' case	Reserve right to object subject to receipt
E	D 111 – D 134	Plaintiff's rap sheets	Impeachment	F.R.E. 403, 404, improper impeachment
F	D 135 – D 187	Plaintiff's arrest history	Impeachment	F.R.E. 403, 404, improper impeachment
G		Plaintiff's 11/5/15 & 7/20/16 Deposition Transcripts	Impeachment	
H		Civil Complaint/Amended Complaint / Second Amended Complaint, 14 CV 6519	Impeachment	F.R.E. 403, improper impeachment
I		Plaintiff's Responses to Defendants' Discovery Demands, 14 CV 6519	Impeachment	F.R.E. 403, improper impeachment


<sup>4</sup> Defendants respectfully reserve the right to supplement this list of exhibits based on any *in limine* rulings or to rebut evidence adduced in plaintiff's case in chief or for impeachment purposes. Defendants further respectfully reserve the right to use any exhibits listed by plaintiff herein.



J		Deposition transcripts from plaintiff's prior lawsuits	Impeachment	F.R.E. 403, improper impeachment
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Dated: Brooklyn, New York

November 18, 2016

  
Afsaan Saleem, Esq.

The Rameau Law Firm  
Attorney for Plaintiff  
16 Court Street, Suite 2504  
Brooklyn, New York 11241  
(718) 852-4759  
saleemlawny@gmail.com  
rameaulawny@gmail.com

  
Alexandra Corsi, Esq.  
Senior Counsel

Zachary A. Carter  
Corporation Counsel of the  
City of New York  
Special Federal Litigation Division  
100 Church Street  
New York, NY 10007  
(212) 356-2340  
acorsi@law.nyc.gov

SO ORDERED:

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HON. WILLIAM F. KUNTZ, U.S.D.J.